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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/531,497

12/30/2005

Allan Dolph Meyer

GRANT-013

8653

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08/22/2007

EXAMINER

PATEL, NIHIR B

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

08/22/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/531,497

Applicant(s)

MEYER ET AL.

Examiner

Nihir Patel

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on June 4<sup>th</sup>, 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10 and 16 is/are rejected.
- 7) ☒ Claim(s) 4-9 and 11-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on June 4<sup>th</sup>, 2007 have been fully considered but they are not persuasive. In reference to claim 1, the applicant argues that Hinestroza clearly is not concerned with a hyperbaric chamber or capsule for therapeutic use. The examiner disagrees. The fact that the device of Hinestroza has an oxygen tank implies that the invention of Hinestroza is concerned with a hyperbaric chamber or capsule. The applicant also argues that nowhere in Hinestroza do terms like "seal", "seal-line" or "air-tight" occur. The examiner again disagrees. The non-flammable foam rubber is defined as the "seal". Because there are many layers (see **column 4 and 5**) it is inherent that the device of Hinestroza is "air-tight". The many layers prevents air from coming in making the device air tight.

In reference to claim 3, the applicant argues that Hinestroza does not disclose canopy latching, or any form of a latch; no form of canopy latch is mentioned in the cited passage and certainly, there is no disclosure of canopy latching means operable from both within and outside the capsule. The examiner again disagrees. Hinestroza discloses a capsule **40 with a door 42**. The door in Hinestroza inherently has a latching means (see **column 4 lines 25-40; the user must grab on to something in order to close the door as mentioned in column 4 lines 25-40**) and if there is a latch on the inside of the door it is inherent that there must be a latch on the outside the door to open it.

In reference to claim 10, the applicant argues that Hinestroza does not disclose a hinge. The examiner disagrees. It is inherent that if the door **42** in Hinestroza can open and close (see **column 4 lines 25-40**) then it must include a hinge.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **1-3, 10 and 16** are rejected under 35 U.S.C. 102(b) as being anticipated by Hinestroza (US 6,224,018).

4. **As to claim 1**, Hinestroza discloses an apparatus that comprises an elongate base molding forms a forward facing chair **20** (see **figures 1 and 2; column 3 lines 55-60**) for a user, the chair having a seat **21** (see **figures 2 and 3; column 2 lines 55-60**) and a back rising from the seat **22** (see **figures 2 and 3; column 2 lines 55-60**), the base molding has a front portion that extends forward of the chair seat at user foot level (see **figures 2 and 3**), the base molding has a rear portion that extends upwardly above the back of the chair and above user head level (see **figures 2 and 3**), the base molding defines a peripheral seal-line **45** that extends around the front portion, along each side of the chair and around the rear portion (see **figure 4 and column 4 lines 35-45**), an elongate canopy extends forward and downward from above user head level at the back portion of the base to the front of the base (see **figures 2 and 3**), an elongate transparent window is formed in the canopy (see **page 4 lines 35-45**); the canopy is movable between an open position, where a user can freely move to the chair from the side of the capsule, and a closed position where a seated user is fully enclosed by the base and the canopy (see **column 4 lines 25-40**) and the canopy defines a peripheral seal-line that is adapted to engage with the base

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seal-line to form an air tight seal between the canopy and the base when the canopy is in the closed position (**since it has a seal; the capsule inherently it is considered to be air tight**); and wherein means are provided for supplying gas under pressure to the capsule and for maintaining hyperbaric pressure within the capsule, when the canopy is in the closed position (**the oxygen tank 27 (see column 3 lines 65-67) implies that the capsule is under hyperbaric pressure when the canopy is in the closed position**).

5. **As to claim 2**, Hinestroza teaches an apparatus wherein the canopy has a convex external surface that is curved both front to back and side to side, the window also has a convex outer external surface that is curved both front to back and side to side and the window extends at least from user head level to the level of the seat of the chair, when the canopy is closed (**see figures 2 and 3**).

6. **As to claim 3**, Hinestroza teaches an apparatus that comprises latching means operable from both within and outside the capsule for securing the canopy to the base when the canopy is in the closed position to permit pressurization of the capsule, and for releasing the canopy from the base for movement to the open position (**see figures 2 and 3; column 4 lines 25-45**).

7. **As to claim 10**, Hinestroza teaches an apparatus wherein the canopy is hingedly attached to the front portion of the base for movement about a transverse horizontal axis (**see figures 2 and 3**), and gas struts are fitted between the canopy and the base on each side of the front portion of the base to counterbalance the weight of the canopy when open or when being opened (**see figures 2 and 3**).

8. **As to claim 16**, Hinestroza teaches an apparatus wherein the width of the capsule is less than that of a standard door frame, and the base is fitted with wheels or rollers by which the

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capsule can be moved to or transported within a domestic location (see figure 3 and column 3; lines 50-67).

*Allowable Subject Matter*

9. Claims 4-9 and 11-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach plurality of latches spaced around the peripheral seal line of the base.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

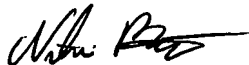
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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8/20/07